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### REMARKS

#### Restriction requirement

In the Office Action of February 7, 2006 the Examiner asserts, in a restriction requirement, that the present application contains claims directed to three distinct groups of the claimed invention, Group I (claims 1, 2, 5-7, 9-11, and 22-26), Group II (claims 12, 13 and 15-21) and Group III (claims 27 and 29-32).

Applicants request that the Examiner reconsider the requirement for restriction as discussed below.

1. Applicants note that 35 USC § 121 authorizes, but **does not require**, the USPTO to restrict an application to one invention if two or more independent and distinct inventions are claimed in one application. In view of the expense that would be imposed upon the Applicant by multiple patent applications and multiple patents, it is believed that restriction requirements should be issued only when absolutely necessary.

2. The Applicants further note that the total number of claims elected with Applicants' previous response of April 20, 2005 is limited, i.e. 27 claims. The Examiner is respectfully reminded of MPEP 803, which states that

*"If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."*

In the case at issue, there is no serious burden in examining 27 claims, all pertaining to the same technological class 359. Further, in view of the fact that Applicants' last response was filed on April 20, 2005 and that the Examiner's next Action (the current restriction requirement) has been issued on February 7, 2006, Applicants respectfully submit that the Examiner had ample time to examine all those claims on the merits.

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3. Further, MPEP 808.01 states that

the "Examiner [ ] must provide reasons and/or examples to support conclusions ..." and "[a] mere statement of conclusion is inadequate."

In the case at issue, it should be noted that the Examiner has not provided reasons as to why Group I and Group III claims, all directed to an apparatus in the same technological class 359 and pertaining to neighboring subclasses 169 and 170, are distinct therebetween. Moreover, even if Groups I, III and Group II are related as product and process of use, it should be note that they all pertain to the same technological class 359.

Therefore, the Applicants submit that the restriction requirement set forth in the Office Action of February 7, 2006 is improper. Moreover, should the Examiner believe such restriction requirement to be proper, the requirement should be directed to two groups only, apparatus claims (Group I + Group III) and method claims (Group II). As such, reconsideration is respectfully requested and the Examiner is respectfully requested to withdraw the restriction requirement. However, as required under 35 USC § 121, Applicants provisionally elect Group I claims 1, 2, 5-7, 9-11 and 22-26.

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The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, fax no. (571)-273-8300 on

Respectfully submitted,

March 3, 2006  
(Date of Deposit)

Susan Papp  
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Susan Papp  
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